

as set forth in Exhibit 5 attached. The parties shall pursue such other public dissemination of information regarding this Agreement as the parties shall agree.

XVIII ATTORNEYS FEES AND COSTS

39. Within 60 days of final court approval of this Agreement, Defendants shall pay to Plaintiffs the total sum of \$_____, in full settlement of all attorneys' fees and costs in this case.

XIX TERMINATION

40. All terms of this Agreement shall terminate the earlier of five years from the date of final court approval of this Agreement or three years after the court determines that the INS is in substantial compliance with the Agreement, except the following: the INS shall continue to house the general population of minors in INS custody in facilities that are state-licensed for the care of dependent minors.

XX REPRESENTATIONS AND WARRANTY

41. Counsel for the respective parties, on behalf of themselves and their clients, represent that they know of nothing in this Agreement that exceeds the legal authority of the parties or is in violation of any law. Defendants' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Attorney General, the United States Department of Justice, and the Immigration and Naturalization Service, and acknowledge that Plaintiffs enter into this Agreement in reliance on such representation. Plaintiffs' counsel represent and warrant that they are fully authorized and empowered to enter into this Agreement on behalf of the Plaintiffs, and acknowledge that Defendants enter into this Agreement in reliance on such representation. The undersigned, by their signatures on behalf of the Plaintiffs and Defendants, warrant that upon execution of this Agreement in their representative capacities, their principals, agents, and successors of such principals and agents shall be fully and unequivocally bound hereunder to the full extent authorized by law.

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EXHIBIT 1

Minimum Standards for Licensed Programs

A. Licensed programs shall comply with all applicable state child welfare laws and regulations and all state and local building, fire, health and safety codes and shall provide or arrange for the following services for each minor in its care:

1. Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing, and personal grooming items.
2. Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screening for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the minor was recently examined at another facility; appropriate immunizations in accordance with the U.S. Public Health Service (PHS), Center for Disease Control; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.
3. An individualized needs assessment which shall include: (a) various initial intake forms; (b) essential data relating to the identification and history of the minor and family; (c) identification of the minors' special needs including any specific problem(s) which appear to require immediate intervention; (d) an educational assessment and plan; (e) an assessment of family relationships and interaction with adults, peers and authority figures; (f) a statement of religious preference and practice; (g) an assessment of the minor's personal goals, strengths and weaknesses; and (h) identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in family reunification.
4. Educational services appropriate to the minor's level of development, and communication skills in a structured classroom setting, Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training (ELT). The educational program shall include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program shall provide minors with appropriate reading materials in languages other than English for use during the minor's leisure time.
5. Activities according to a recreation and leisure time plan which shall include daily outdoor activity, weather permitting, at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (this should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
6. At least one (1) individual counseling session per week conducted by trained social work staff with the specific objectives of reviewing the minor's progress, establishing new short term objectives, and addressing both the developmental and crisis-related needs of each minor.
7. Group counseling sessions at least twice a week. This is usually an informal process and takes place with all the minors present. It is a time when new minors are given the opportunity to get acquainted with the staff, other children, and the rules of the program. It is an open forum where everyone gets a chance to speak. Daily program management is discussed and decisions are made about recreational activities, etc. It is a time for staff and minors to discuss whatever is on their minds and to resolve problems.
8. Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.

9. Upon admission, a comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.

10. Whenever possible, access to religious services of the minor's choice.

11. Visitation and contact with family members (regardless of their immigration status) which is structured to encourage such visitation. The staff shall respect the minor's privacy while reasonably preventing the unauthorized release of the minor.

12. A reasonable right to privacy, which shall include the right to: (a) wear his or her own clothes when available; (b) retain a private space in the residential facility, group or foster home for the storage of personal belongings; (c) talk privately on the phone, as permitted by the house rules and regulations; (d) visit privately with guests, as permitted by the house rules and regulations; and (e) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.

13. Family reunification services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the minor.

14. Legal services information regarding the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a deportation or exclusion hearing before an immigration judge, the right to apply for political asylum or to request voluntary departure in lieu of deportation.

B. Service delivery is to be accomplished in a manner which is sensitive to the age, culture, native language and the complex needs of each minor.

C. Program rules and discipline standards shall be formulated with consideration for the range of ages and maturity in the program and shall be culturally sensitive to the needs of alien minors. Minors shall not be subjected to corporal punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping. Any sanctions employed shall not: (1) adversely affect either a minor's health, or physical or psychological well-being; or (2) deny minors regular meal, sufficient sleep, exercise, medical care, correspondence privileges, or legal assistance.

D. A comprehensive and realistic individual plan for the care of each minor must be developed in accordance with the minor's needs as determined by the individualized need assessment. Individual plans shall be implemented and closely coordinated through an operative case management system.

E. Programs shall develop, maintain and safeguard individual client case records. Agencies and organizations are required to develop a system of accountability which preserves the confidentiality of client information and protects the records from unauthorized use or disclosure.

F. Programs shall maintain adequate records and make regular reports as required by the INS that permit the INS to monitor and enforce this order and other requirements and standards as the INS may determine are in the best interests of the minors.

Exhibit 2

Instructions to Service Officers re:

Processing, Treatment, and Placement of Minors

These instructions are to advise Service officers of INS policy regarding the way in which minors in IN custody are processed, housed and released. These instructions are applicable nationwide and supersede all prior inconsistent instructions regarding minors.

(a) Minors. A minor is a person under the age of eighteen years. However, individuals who have been "emancipated" by a state court or convicted and incarcerated for a criminal offense as an adult are not considered minors. Such individuals must be treated as adults for all purposes, including confinement and release on bond.

Similarly, if a reasonable person would conclude that an individual is an adult despite his claims to be minor, the INS shall treat such person as an adult for all purposes, including confinement and release on bond or recognizance. The INS may require such an individual to submit to a medical or dental examination conducted by a medical professional or to submit to other appropriate procedures to verify his or her age. If the INS subsequently determines that such an individual is a minor, he or she will be treated as a minor for all purposes.

(b) General policy. The INS treats and shall continue to treat minors with dignity, respect and special concern for their particular vulnerability. INS policy is to place each detained minor in the least restrictive setting appropriate to the minor's age and special needs, provided that such setting is consistent with the need to ensure the minor's timely appearance and to protect the minor's well-being and that of others. INS officers are not required to release a minor to any person or agency whom they have reason to believe may harm or neglect the minor or fail to present him or her before the INS or the immigration courts when requested to do so.

(c) Processing. The INS will expeditiously process minors and will provide them a Form I-770 notice of rights, including the right to a bond redetermination hearing, if applicable.

Following arrest, the INS will hold minors in a facility that is safe and sanitary and that is consistent with the INS's concern for the particular vulnerability of minors. Such facilities will have access to toilets and sinks, drinking water and food as appropriate, medical assistance if the minor is in need of emergency services, adequate temperature control and ventilation, adequate supervision to protect minors from others, and contact with family members who were arrested with the minor. The INS will separate unaccompanied minors from unrelated adults whenever possible. Where such segregation is not immediately possible, an unaccompanied minor will not be detained with an unrelated adult for

more than 24 hours.

If the minor cannot be immediately released, and no licensed program (described below) is available to care for him, he should be placed in an INS or INS-contract facility that has separate accommodations for minors, or in a State or county juvenile detention facility that separates minors in INS custody from delinquent offenders. The INS will make every effort to ensure the safety and well-being of juveniles placed in these facilities.

(d) Release. The INS will release minors from its custody without unnecessary delay, unless detention of a juvenile is required to secure her timely appearance or to ensure the minor's safety or that of others. Minors shall be released in the following order of preference, to:

- (i) a parent;
- (ii) a legal guardian;
- (iii) an adult relative (brother, sister, aunt, uncle, or grandparent);
- (iv) an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor's well-being in (i) a declaration signed under penalty of perjury before an immigration or consular officer, or (ii) such other documentation that establishes to the satisfaction of the INS, in its discretion, that the individual designating the individual or entity as the minor's custodian is in fact the minor's parent or guardian;
- (v) a state-licensed juvenile shelter, group home, or foster home willing to accept legal custody; or
- (vi) an adult individual or entity seeking custody, in the discretion of the INS, when it appears that there is no other likely alternative to long term detention and family reunification does not appear to be a reasonable possibility.

(e) Certification of custodian. Before a minor is released, the custodian must execute an Affidavit of Support (Form I-134) and an agreement to:

- (i) provide for the minor's physical, mental, and financial well-being;
- (ii) ensure the minor's presence at all future proceedings before the INS and the immigration court;
- (iii) notify the INS of any change of address within five (5) days following a move;
- (iv) if the custodian is not a parent or legal guardian, not transfer custody of the minor to another party without the prior written permission of the District Director, except in the event of an emergency;
- (v) notify the INS at least five days prior to the custodian's departing the United States of such departure, whether the departure is voluntary or pursuant to a grant of voluntary departure or order of deportation; and

(vi) if dependency proceedings involving the minor are initiated, notify the INS of the initiation of a such proceedings and the dependency court of any deportation proceedings pending against the minor.

In an emergency, a custodian may transfer temporary physical custody of a minor prior to securing permission from the INS, but must notify the INS of the transfer as soon as is practicable, and in all cases within 72 hours. Examples of an "emergency" include the serious illness of the custodian, destruction of the home, etc. In all cases where the custodian seeks written permission for a transfer, the District Director shall promptly respond to the request.

The INS may terminate the custody arrangements and assume legal custody of any minor whose custodian fails to comply with the agreement. However, custody arrangements will not be terminated for minor violations of the custodian's obligation to notify the INS of any change of address within five days following a move.

(f) Suitability assessment. An INS officer may require a positive suitability assessment prior to releasing a minor to any individual or program. A suitability assessment may include an investigation of the living conditions in which the minor is to be placed and the standard of care he would receive, verification of identity and employment of the individuals offering support, interviews of members of the household, and a home visit. The assessment will also take into consideration the wishes and concerns of the minor.

(g) Family reunification. Upon taking a minor into custody, the INS, or the licensed program in which the minor is placed, will promptly attempt to reunite the minor with his or her family to permit the release of the minor under Paragraph (d) above. Such efforts at family reunification will continue so long as the minor is in INS or licensed program custody and will be recorded by the INS or the licensed program in which the minor is placed.

(h) Placement in licensed programs. A "licensed program" is any program, agency or organization licensed by an appropriate state agency to provide residential group, or foster care services for dependent children, including a program operating group homes, foster homes or facilities for special needs minors. Exhibit 1 of the Flores v. Reno Settlement Agreement describes the standard required of licensed programs. Juveniles who remain in INS custody must be placed in a licensed program within three days if the minor was apprehended in an INS district in which a licensed program is located and has space available, or within five days in all other cases, except when:

- (i) the minor is an escape risk or delinquent, as defined in Paragraph (l) below;
- (ii) a court decree or court-approved settlement requires otherwise;
- (iii) an emergency or influx of minors into the United States prevents compliance, in which case all minors should be placed in licensed programs as expeditiously as possible; or
- (iv) where the minor must be transported from remote areas for processing or speaks an unusual language such that a special interpreter is required to process the minor, in which case the minor must be placed in a licensed program within five business days.

(i) Secure and supervised detention. A minor may be held in or transferred to a State or county

juvenile detention facility or in a secure INS facility or INS-contracted facility having separate accommodations for minors, whenever the District Director or Chief Patrol Agent determines that the minor -

(i) has been charged with, is chargeable, or has been convicted of a crime, or is the subject of delinquency proceedings, has been adjudicated delinquent, or is chargeable with a delinquent act, unless the minor's offense is

(a) an isolated offense not within a pattern of criminal activity which did not involve violence against a person or the use or carrying of a weapon (Examples: breaking and entering, vandalism, DUI, etc.); or

(b) a petty offense, which is not considered grounds for stricter means of detention in any case (Examples: shoplifting, joy riding, disturbing the peace, etc.);

(ii) has committed, or has made credible threats to commit, a violent or malicious act (whether directed at himself or others) while in INS legal custody or while in the presence of an INS officer;

(iii) has engaged, while in a licensed program, in conduct that has proven to be unacceptably disruptive of the normal functioning of the licensed program in which he or she has been placed and removal is necessary to ensure the welfare of the minor or others as determined by the staff of the licensed program (Examples: drug or alcohol abuse, stealing, fighting, intimidation of others, etc.);

(iv) is an escape-risk; or

(v) must be held in a secure facility for his or her own safety, such as when the INS has reason to believe that a smuggler would abduct or coerce a particular minor to secure payment of smuggling fees.

"Chargeable" means that the INS has probable cause to believe that the individual has committed a specified offense.

The term "escape-risk" means that there is a serious risk that the minor will attempt to escape from custody. Factors to consider when determining whether a minor is an escape-risk or not include, but are not limited to, whether:

(a) the minor is currently under a final order of deportation or exclusion;

(b) the minor's immigration history includes: a prior breach of a bond; a failure to appear before the INS or the immigration court; evidence that the minor is indebted to organized smugglers for his transport; or a voluntary departure or a previous removal from the United States pursuant to a final order of deportation or exclusion;

(c) the minor has previously absconded or attempted to abscond from INS custody.

The INS will not place a minor in a State or county juvenile detention facility, secure INS detention facility, or secure INS-contracted facility if less restrictive alternatives are available and appropriate in

the circumstances, such as transfer to a medium security facility that provides intensive staff supervision and counseling services or transfer to another licensed program. All determinations to place a minor in a secure facility must be reviewed and approved by the regional Juvenile Coordinator.

(j) Notice of right to bond redetermination and judicial review of placement. A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case in which he either affirmatively requests, or fails to request or refuse, such a hearing on the Notice of Custody Determination. A juvenile who is not released or placed in a licensed placement shall be provided (1) a written explanation of the right of judicial review in the form attached, and (2) the list of free legal services providers compiled pursuant to 8 C.F.R. § 292a.

(k) Transportation and transfer. Unaccompanied minors should not be transported in vehicles with detained adults except when being transported from the place of arrest or apprehension to an INS office or where separate transportation would be otherwise impractical, in which case minors shall be separated from adults. INS officers shall take all necessary precautions for the protection of minors during transportation with adults.

When a minor is to be released, the INS will assist him or her in making transportation arrangements to the INS office nearest the location of the person or facility to whom a minor is to be released. The Service may, in its discretion, provide transportation to such minors.

Whenever a minor is transferred from one placement to another, she shall be transferred with all of her possessions and legal papers; provided, however, that if the minor's possessions exceed the amount permitted normally by the carrier in use, the possessions must be shipped to the minor in a timely manner. No minor who is represented by counsel should be transferred without advance notice to counsel, except in unusual and compelling circumstances such as where the safety of the minor or others is threatened or the minor has been determined to be an escape-risk, or where counsel has waived notice, in which cases notice must be provided to counsel within 24 hours following transfer.

(l) Periodic reporting. All INS district offices and Border Patrol stations must report to the Juvenile Coordinator statistical information on minors placed in proceedings who remain in INS custody for longer than 72 hours. Information will include: (a) biographical information, including the minor's name, date of birth, and country of birth, (b) date placed in INS custody, (c) each date placed, removed or released, (d) to whom and where placed, transferred, removed or released, (e) immigration status, and (f) hearing dates. The Juvenile Coordinator must also be informed of the reasons for placing a minor in a medium security facility or detention facility as described in paragraph (i).

(m) Attorney-client visits by Plaintiffs' counsel. The INS will permit lawyers for the *Reno v. Flores* plaintiff class to visit minors even though they may not have the names of minors who are housed at a particular location. A list of Plaintiffs' counsel entitled to make attorney-client visits with minors is available from the district Juvenile Coordinator. Attorney-client visits may also be conducted by any staff attorney employed by the Center for Human Rights & Constitutional Law of Los Angeles, California, or the National Center for Youth Law of San Francisco, California, provided that such attorney presents credentials establishing his or her employment prior to any visit.

Visits must occur in accordance with generally applicable policies and procedures relating to attorney-client visits at the facility in question. Upon Plaintiffs' counsel's arrival at a facility for attorney-client visits, the facility staff must provide Plaintiffs' counsel with a list of names and alien registration numbers for the minors housed at that facility. In all instances, in order to memorialize any visit to a

minor by Plaintiffs' counsel, Plaintiffs' counsel must file a notice of appearance with the INS prior to any attorney-client meeting. Plaintiffs' counsel may limit the notice of appearance to representation of the minor in connection with his placement or treatment during INS custody. Plaintiffs' counsel must submit a copy of the notice of appearance by hand or by mail to the local INS juvenile coordinator and a copy by hand to the staff of the facility.

A minor may refuse to meet with Plaintiffs' counsel. Further, the minor's parent or legal guardian may deny Plaintiffs' counsel permission to meet with the minor.

(n) Visits to licensed facilities. In addition to the attorney-client visits, Plaintiffs' counsel may request access to a licensed program's facility (described in paragraph (h)) or to a medium-security facility or detention facility (described in paragraph (i)) in which a minor has been placed. The district juvenile coordinator will convey the request to the facility's staff and coordinate the visit. The rules and procedures to be followed in connection with such visits are set out in Exhibit 4 of the *Flores v. Reno* Settlement Agreement, unless Plaintiffs' counsel and the facility's staff agree otherwise. In all visits to any facility, Plaintiffs' counsel and their associated experts must treat minors and staff with courtesy and dignity and must not disrupt the normal functioning of the facility.

EXHIBIT 3

Contingency Plan

In the event of an emergency or influx that prevents the prompt placement of minors in licensed programs with which the Community Relations Service has contracted, INS policy is to make all reasonable efforts to place minors in licensed programs licensed by an appropriate state agency as expeditiously as possible. An emergency is an act or event, such as a natural disaster (e.g. earthquake, fire, hurricane), facility fire, civil disturbance, or medical emergency (e.g. a chicken pox epidemic among a group of minors) that prevents the prompt placement of minors in licensed facilities. An influx is defined as any situation in which there are more than 130 minors in the custody of the INS who are eligible for placement in licensed programs.

1. The Juvenile Coordinator will establish and maintain an Emergency Placement List of at least 80 beds at programs licensed by an appropriate state agency that are potentially available to accept emergency placements. These 80 placements would supplement the 130 placements that INS normally has available, and whenever possible, would meet all standards applicable to juvenile placements the INS normally uses. The Juvenile Coordinator may consult with child welfare specialists, group home operators, and others in developing the list. The Emergency Placement List will include the facility name; the number of beds at the facility; the name and telephone number of contact persons; the name and telephone number of contact persons for nights, holidays, and weekends if different; any restrictions on minors accepted (e.g. age); and any special services that are available.

2. The Juvenile Coordinator will maintain a list of minors affected by the emergency or influx, including (1) the minor's name, (2) date and country of birth, and (3) date placed in INS custody.
3. Within one business day of the emergency or influx the Juvenile Coordinator, or his or her designee will contact the programs on the Emergency Placement List to determine available placements. As soon as available placements are identified, the Juvenile Coordinator will advise appropriate INS staff of their availability. To the extent practicable, the INS will attempt to locate emergency placements in geographic areas where culturally and linguistically appropriate community services are available.
4. In the event that the number of minors needing emergency placement exceeds the available appropriate placements on the Emergency Placement List, the Juvenile Coordinator will work with the Community Relations Service to locate additional placements through licensed programs, county social services departments, and foster family agencies.
5. Each year, the INS will reevaluate the number of regular placements needed for detained minors to determine whether the number of regular placements should be adjusted to accommodate an increase or decreased number of minors eligible for placement in licensed programs. However, any decision to increase the number of placements available shall be subject to the availability of INS resources. The Juvenile Coordinator shall promptly provide Plaintiffs' counsel with any reevaluation made by INS pursuant to this paragraph.
6. The Juvenile Coordinator shall provide to Plaintiffs' counsel copies of the Emergency Placement List within six months after the court's final approval of the Settlement Agreement.

EXHIBIT 4

Agreement Concerning Facility Visits Under Paragraph 33

The purpose of facility visits under paragraph 33 is to interview class members and staff and to observe conditions at the facility. Visits under paragraph 33 shall be conducted in accordance with the general applicable policies and procedures of the facility to the extent that those policies and procedures are consistent with this Exhibit.

Visits authorized under paragraph 33 shall be scheduled no less than seven (7) business days in advance. The names, positions, credentials, and professional association (e.g., Center for Human Rights and Constitutional Law) of the visitors will be provided at that time.

All visits with class members shall take place during normal business hours.

No video recording equipment or cameras of any type shall be permitted. Audio recording equipment shall be limited to hand-held tape recorders.

The number of visitors will not exceed six (6) or, in the case of a family foster home, four (4), including interpreters, in any instance. Up to two (2) of the visitors may be non-attorney experts in juvenile justice and/or child welfare.

No visit will extend beyond three (3) hours per day in length. Visits shall minimize disruption to the routine that minors and staff follow.

Exhibit 5

List of Organizations to Receive Information re: Settlement Agreement

Eric Cohen, Immig. Legal Resource Center, 1663 Mission St. Suite 602, San Francisco, CA 94103

Cecilia Munoz, Nat'l Council Of La Raza, 810 1st St. NE Suite 300, Washington, D.C. 20002

Susan Alva, Immig. & Citiz. Proj Director, Coalition For Humane Immig Rights of LA, 1521 Wilshire Blvd., Los Angeles, CA 90017

Angela Cornell, Albuquerque Border Cities Proj., Box 35895, Albuquerque, NM 87176-5895

Beth Persky, Executive Director, Centro De Asuntos Migratorios, 1446 Front Street, Suite 305, San Diego, CA 92101

Dan, Kesselbrenner, , National Lawyers Guild, National Immigration Project, 14 Beacon St., #503, Boston, MA 02108

Lynn Marcus , SWRRP, 64 E. Broadway, Tucson, AZ 85701-1720

Maria Jimenez, , American Friends Service Cmte., ILEMP, 3522 Polk Street, Houston, TX 77003-484

Wendy Young, , U.S. Cath. Conf., 3211 4th St. NE, , Washington, DC, 20017-1194

Miriam Hayward , International Institute Of The East Bay, 297 Lee Street , Oakland, CA 94610

Emily Goldfarb, , Coalition For Immigrant & Refugee Rights, 995 Market Street, Suite 1108 , San Francisco, CA 94103

Jose De La Paz, Director, California Immigrant Workers Association, 515 S. Shatto Place , Los Angeles CA, 90020

Annie Wilson, LIRS, 390 Park Avenue South, First Asylum Concerns, New York, NY 10016

Stewart Kwoh, Asian Pacific American Legal Center, 1010 S. Flower St., Suite 302, Los Angeles, CA

90015

Warren Leiden, Executive Director, AILA, 1400 Eye St., N.W., Ste. 1200, Washington, DC, 20005

Frank Sharry, Nat'l Immig Ref & Citiz Forum, 220 I Street N.E., Ste. 220, Washington, D.C. 20002

Reynaldo Guerrero, Executive Director, Center For Immigrant's Rights, 48 St. Marks Place , New York, NY 10003

Charles Wheeler , National Immigration Law Center, 1102 S. Crenshaw Blvd., Suite 101 , Los Angeles, CA 90019

Deborah A. Sanders, Asylum & Ref. Rts Law Project, Washington Lawyers Comm., 1300 19th Street, N.W., Suite 500 , Washington, D.C. 20036

Stanley Mark, Asian American Legal Def.& Ed.Fund, 99 Hudson St, 12th Floor, New York, NY 10013

Sid Mohn, Executive Director, Travelers & Immigrants Aid, 327 S. LaSalle Street, Suite 1500, Chicago IL, 60604

Bruce Goldstein, Attornet At Law, Farmworker Justice Fund, Inc., 2001 S Street, N.W., Suite 210, Washington, DC 20009

Ninfa Krueger, Director, BARCA, 1701 N. 8th Street, Suite B-28, McAllen, TX 78501

John Goldstein, , Proyecto San Pablo, PO Box 4596,, Yuma, AZ 85364

Valerie Hink, Attorney At Law, Tucson Ecumenical Legal Assistance, P.O. Box 3007 , Tucson, AZ 85702

Pamela Mohr, Executive Director, Alliance For Children's Rights, 3708 Wilshire Blvd. Suite 720, Los Angeles, CA 90010

Pamela Day, Child Welfare League Of America, 440 1st St. N.W., , Washington, DC 20001

Susan Lydon, Esq., Immigrant Legal Resource Center, 1663 Mission St. Ste 602, San Francisco, CA 94103

Patrick Maher, Juvenile Project, Centro De Asuntos Migratorios, 1446 Front Street, # 305, San Diego, CA 92101

Lorena Munoz, Staff Attorney, Legal Aid Foundation of LA-IRO, 1102 Crenshaw Blvd., Los Angeles, CA 90019

Christina Zawisza, Staff Attorney, Legal Services of Greater Miami, 225 N.E. 34th Street, Suite 300, Miami, FL 33137

Miriam Wright Edelman, Executive Director, Children's Defense Fund, 122 C Street N.W. 4th Floor, Washington, DC 20001

Rogelio Nunez, Executive Director, Proyecto Libertad, 113 N. First St., Harlingen, TX 78550

Exhibit 6

Notice of Right to Judicial Review

"The INS usually houses persons under the age of 18 in an open setting, such as a foster or group home and not in detention facilities. If you believe that you have not been properly placed or that you have been treated improperly, you may ask a federal judge to review your case. You may call a lawyer to help you do this. If you cannot afford a lawyer, you may call one from the list of free legal services given to you with this form."



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Attachment 4.

McKinney-Vento Homeless Education Act of 2001. This establishes these homeless children to be under The No Child Left Behind-Act of 2001, Title I.

Also included, is the USDA memo explaining the status of homeless children and the Free Breakfast and Lunch Program.

The Education of Students in Homeless Situations in the 2001 No Child Left Behind Act: Summary of McKinney-Vento Act and Title I Provisions

The McKinney-Vento Homeless Assistance Act, reauthorized in December 2001, ensures educational rights and protections for children and youth experiencing homelessness. This document summarizes key provisions of the Act, as well as key provisions of the reauthorized Elementary and Secondary Education Act's Title I statute. It is designed to provide a comprehensive overview of new provisions and language changes by topic area. Key provisions of the McKinney-Vento Act that were not amended are also included. A copy of the full text of the legislation is available at the NCH web site at: <http://www.nationalhomeless.org/ehcylaw.html> and at the NLCHP site at <http://www.nlchp.org/>. Issue briefs that explain key legislative provisions, and offer strategies for implementing them, will soon be available on the NCH, NLCHP, and NN4Youth web sites (see below).

Issue	2001 Reauthorization
School Selection	<ul style="list-style-type: none"> • According to a child or youth's best interest, Local Educational Agencies (LEAs) must either continue the child/youth's education in the school of origin, or enroll the child/youth in school in any public school that nonhomeless students who live in the attendance area where the child/youth is actually living are eligible to attend [Sec. 722(g)(3)(A)]. • "School of origin" is defined as the school the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled [Sec. 722(g)(3)(G)]. • In determining best interest, LEAs must, to the extent feasible, keep children/youth in the school of origin, unless it is against the wishes of the parent/guardian [Sec. 722(g)(3)(B)(i)]. (NEW) • A homeless child or youth's right to attend their school of origin extends for the duration of homelessness [Sec. 722(g)(3)(A)(i)]. (NEW) • If a child or youth becomes permanently housed during the academic year, he or she is entitled to stay in the school of origin for the remainder of the academic year [Sec. 722(g)(3)(A)(i)(II)]. (NEW) • Children and youth who become homeless in between academic years are entitled to attend their school of origin for the following academic year [Sec. 722(g)(3)(A)(i)(I)]. • If the LEA sends the child/youth to a school other than the school of origin or the school requested by the parent or guardian, the LEA must provide written explanation to the parent or guardian, including the right to appeal under the enrollment disputes provision (see below) [Sec. 722(g)(3)(B)(ii)]. (NEW) • In the case of an unaccompanied youth, the LEA homeless liaison must assist in placement/enrollment decisions, consider the youth's wishes, and provide notice to the youth of the right to appeal under the enrollment disputes provisions (see below) [Sec. 722(g)(3)(B)(iii)]. (NEW) • The choice regarding placement must be made regardless of whether the child or youth resides with the homeless parent or has been temporarily placed elsewhere [Sec. 722(g)(3)(F)]. (NOTE: the 2001 reauthorization strikes the words "by the parents" which under the previous statute followed the word "elsewhere".)

Enrollment	<ul style="list-style-type: none"> • The school selected shall immediately enroll the child/youth in school, even if the child or youth lacks records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation [Sec. 722(g)(3)(C)(i)]. (NEW) • The terms "enroll" and "enrollment" are defined to include attending classes and participating fully in school activities [Sec. 725(3)]. (NEW) • The enrolling school must immediately contact the last school attended to obtain relevant academic and other records [Sec. 722(g)(3)(C)(ii)]. (NEW) • If a child or youth lacks immunizations or immunization or medical records, the enrolling school must refer parent/guardian to the liaison, who shall help obtain necessary immunizations or immunization or medical records (See Records, below) [Sec. 722(g)(3)(C)(iii)]. (NEW) • The Act does not prohibit LEAs from requiring parents or guardians to submit contact information [Sec. 722(g)(3)(H)]. (NEW) • The McKinney-Vento plan submitted by the State to ED must include strategies to address problems resulting from enrollment delays caused by immunization and medical records requirements; residency requirements; lack of birth certificates, school records, or other documentation; guardianship issues; or uniform or dress code requirements [Sec. 722(g)(1)(H)]. (NOTE: Bold text indicates new language in the 2001 reauthorization.) • The McKinney-Vento plan submitted by the State must include a demonstration that the State Education Agency (SEA) and LEAs in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in the State [Sec. 722(g)(1)(I)].
Dispute Resolution	<ul style="list-style-type: none"> • The McKinney-Vento plan submitted by the State must include a description of procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth [Sec. 722(g)(1)(C)]. • If a dispute arises over school selection or enrollment, the child/youth must be immediately admitted to the school in which he/she is seeking enrollment, pending resolution of the dispute [Sec. 722(g)(3)(E)(i)]. (NEW) • The parent or guardian must be provided with a written explanation of the school's decision on the dispute, including the right to appeal [Sec. 722(g)(3)(E)(ii)]. (NEW) • The parent/guardian/youth must be referred to the liaison, who will carry out the state's grievance procedure as expeditiously as possible after receiving notice of the dispute [Sec. 722(g)(3)(E)(iii)]. (NEW) • In the case of an unaccompanied youth, the homeless liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute [Sec. 722(g)(3)(E)(iv)]. (NEW)
Records	<ul style="list-style-type: none"> • Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth must be maintained so that the records are available, in a timely fashion, when a child or youth enters a new school or school district, and in a manner consistent with section 444 of the General Education Provisions Act [Section 722(g)(3)(D)]. (NOTE: words in bold text are new in the 2001 reauthorization.)
Transportation	<ul style="list-style-type: none"> • The State and its (LEAs) are required to adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin. If the homeless student continues to live in the area served by the LEA in which the school of origin is located, that LEA must provide or arrange transportation. If the homeless student moves to an area served by another LEA, though continuing his or her education at the school of origin, the LEA of origin and the LEA in which the student is living must agree upon a method to apportion responsibility and costs for transportation to the school of origin. If the LEAs cannot agree upon such a method, the responsibility and costs must be shared equally [Section 722(g)(1)(J)(iii)]. (NEW)

	<ul style="list-style-type: none"> In addition, LEAs must provide services to homeless children and youth that are comparable to those received by other students in the school selected, including transportation (see comparable services, below) [Section 722(g)(4)].
Access to Comparable Services	<ul style="list-style-type: none"> Children and youth are to be provided services comparable to those received by other students in the school selected, including transportation services, and education programs for which students meet eligibility criteria, such as services provided under Title I or similar state or local programs; programs for students with disabilities; programs for students with limited English proficiency; vocational or technical programs; gifted and talented programs; and school nutrition programs [Section 722(g)(4)]. (NOTE: 2001 law replaces "school meals" programs with "school nutrition.") The McKinney-Vento plan submitted by the State must include a description of procedures that ensure that homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State; that homeless youth and youth separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs [Sec. 722(g)(1)(F)]. (NOTE: words in bold text are new in the 2001 reauthorization.)
Academic Achievement Standards	<ul style="list-style-type: none"> It is the policy of Congress that homeless children and youth should have access to the education and other services they need to ensure that they have an opportunity to meet the same challenging State student academic achievement standards to which all students are held [Sec. 721(4)]. (NOTE: The 2001 reauthorization replaces the phrase "performance" from the previous statute and replaces it with "academic achievement.") The McKinney-Vento plan submitted by the State to the Secretary must include a description of how homeless children and youth are or will be given the opportunity to meet the same challenging State academic achievement standards all students are expected to meet [Sec. 722(g)(1)(A)]. (NOTE: The 2001 reauthorization replaces the phrase "student performance" from the previous statute and replaces it with "academic achievement.")
LEA Liaisons	<ul style="list-style-type: none"> All LEAs must designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for homeless children and youth to perform duties described in paragraph 6(A) [Section 722(g)(1)(J)(ii)]. (NEW)
LEA Liaison Duties	<ul style="list-style-type: none"> LEA liaisons must ensure that: Homeless children and youth are identified by school personnel and through coordination activities with other entities and agencies. (NEW) Homeless students enroll in, and have full and equal opportunity to succeed in, the schools of the LEA (NOTE: Bold text represents new language in the 2001 reauthorization). Homeless families, children, and youth receive educational services for which they are eligible, including Head Start, Even Start, and pre-school programs administered by the LEA, and referrals to health, mental health, dental, and other appropriate services. Parents or guardians are informed of educational and related opportunities available to their children, and are provided with meaningful opportunities to participate in the education of their children. (NEW) Public notice of the educational rights of homeless students is disseminated where children and youth receive services under the Act (such as schools, family shelters, and soup kitchens) (NEW) Enrollment disputes are mediated in accordance with the Enrollment Disputes section, Sec. 722(g)(3)(E) (NEW) The parent/guardian of a homeless child or youth, and any unaccompanied youth, is fully informed of all transportation services, including to the school of origin, and is assisted to accessing transportation services.

	<p>[Section 722(g)(6)(A)] (NEW)</p> <ul style="list-style-type: none"> • Liaisons are required to assist unaccompanied youth in placement/enrollment decisions, including considering the youth's wishes in those decisions, and providing notice to the youth of the right to appeal such decisions under the enrollment disputes provisions [Sec. 722(g)(3)(B)(iii)]. (NEW) • Liaisons are required to ensure that unaccompanied youth are immediately enrolled in school pending resolution of disputes that might arise over school enrollment or placement [Sec. 722(g)(3)(E)(iv)]. (NEW) • Liaisons are required to assist children and youth who do not have immunizations, or immunization or medical records, to obtain necessary immunizations, or immunization or medical records [Sec. 722(g)(3)(C)(iii)]. (NEW) • State coordinators and local educational agencies must inform school personnel, service providers, and advocates who work with homeless families of the duties of the liaison [Sec. 722(g)(6)(B)]. • As part of their duties, liaisons are required to collaborate and coordinate with state coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth [Sec. 722(g)(6)(C)]. (NEW)
Segregation	<ul style="list-style-type: none"> • It is the policy of the Congress that homelessness alone is not sufficient reason to separate students from the mainstream school environment [Sec. 721(3)]. (NOTE: The 2001 reauthorization replaces "should not be" from the previous statute and replaces it with "is not.") • States that receive McKinney-Vento Act assistance are prohibited from segregating homeless students in separate schools, separate programs within schools, or separate settings within schools, except as is described below [Sec. 722(e)(3)]: <ul style="list-style-type: none"> • States that have a separate school operated in FY2000 in a "covered county" are excluded from the prohibition, and are eligible to receive McKinney funds providing that the schools, and the LEAs that the homeless children enrolled in the separate schools are entitled to attend, meet the requirements set forth in this section (Covered counties are Orange County, CA; San Diego County, CA; San Joaquin County, CA; and Maricopa County, AZ). Among these requirements are provision of notice about choice of schools, signed by parents; efforts to remove barriers that lead to the creation of separate schools; a prohibition on other schools referring children to separate schools; and no new school sites [Sec. 722(e)(3)(B)]. • If McKinney-Vento services are provided on school grounds, schools must not provide services in settings within a school that segregate homeless children and youth from other children and youth, except as is necessary for short periods of time for health and safety emergencies, or to provide temporary, special, and supplementary services [Sec. 723(a)(2)(B)(ii)]. (NEW) • State and local educational agencies are required to adopt policies and practices to ensure that homeless children and youth are not segregated on the basis of their status as homeless or stigmatized [Sec. 722(g)(1)(J)(i)]. (NOTE: The 2001 reauthorization replaces "isolated" in the previous statute with "segregated on the basis of their status as homeless.") • LEA applications for McKinney-Vento Act funds must include a description of policies and procedures, consistent with the prohibition on segregation (see above), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth [Sec. 723(b)(5)]. (NOTE: The language in bold is new in the 2001 reauthorization.) • Services provided with McKinney-Vento Act funds must not replace the regular academic program and must be designed to expand upon or improve services provided as part of the school's regular academic program [Sec. 723(a)(3)].
Statewide Technical Assistance	<ul style="list-style-type: none"> • The Office of State Coordinator is required to provide technical assistance, in coordination with local liaisons, to LEAs in order to ensure statewide compliance with paragraphs 3 through 7 of subsection g (school choice/placement; best interest determination; enrollment; enrollment disputes; records; comparable services; coordination; local liaison duties; and review and revision of policies) and with Sec. 722(e)(3) (the prohibition on segregation) [Section 722(f)(6)]. (NEW)

	<ul style="list-style-type: none"> The McKinney-Vento plan submitted by the State to the Secretary must indicate what technical assistance the State will furnish to LEAs, and how compliance efforts will be coordinated with local liaisons [Sec. 722(g)(2)(B)]. (NEW).
Statewide Reservation of Funds	<ul style="list-style-type: none"> States must distribute at least 75% of their McKinney-Vento allocation to local educational agencies, except that States funded at the minimum level must distribute at least 50% of their McKinney-Vento Act allocations to local educational agencies [Section 722(e)(1)]. (NEW)
Definitions	<ul style="list-style-type: none"> The term "homeless child and youth" means <ul style="list-style-type: none"> Children and youth who lack a fixed, regular, and adequate nighttime residence, and includes children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement. Children and youth who have a primary nighttime residence that is a private or public place not designed for or ordinarily used as a regular sleeping accommodation for human beings. Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings Migratory children who qualify as homeless because they are living in circumstances described above [Sec. 725]. (NEW) The term unaccompanied youth includes a youth not in the physical custody of a parent or guardian. (NEW) The terms "enroll" and "enrollment" include attending classes and participating fully in school activities. (NEW)
Coordination and Collaboration	<ul style="list-style-type: none"> The State Coordinator for the Education of Homeless Children and Youth is required to facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to homeless children, including preschool-aged homeless children, and youths, and to families of such children and youths [Sec. 722(f)(4)]. (NOTE: Text in bold represents new language in the 2001 reauthorization). In order to improve the provision of comprehensive services, the State Coordinator is required to coordinate and collaborate work with educators, including child development and preschool program personnel; providers of services to homeless and runaway children and youths and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths); local liaisons; and community organizations and groups representing homeless children, youth, and families [Sec. 722(f)(5)]. (NOTE: Text in bold represents new language in the 2001 reauthorization). As part of their duties, liaisons are required to collaborate and coordinate with state coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth [Sec. 722(g)(6)(C)]. (NEW) LEAs that receive McKinney subgrants are required to coordinate the provision of McKinney-Vento funded services with local social service agencies and other agencies or programs providing services to homeless children and youth and their families, including services and programs funded under the Runaway and Homeless Youth Act [Sec.722(g)(5)(A)(i)]. LEAs that receive McKinney subgrants are required to coordinate with other LEAs on interdistrict issues, such as transportation or transfer of school records [Sec.722(g)(5)(A)(ii)]. (NEW) If applicable, state and local educational agencies that receive McKinney-Vento Act funding must coordinate with state and local housing agencies responsible for developing the comprehensive housing affordability strategy of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for students who become homeless [Sec.722(g)(5)(B)]. The coordination efforts of LEAs that receive McKinney-Vento funds must be designed to ensure that homeless children and youth have access and reasonable proximity to available education and related support services, and to raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter

	and other challenges associated with homelessness [Sec. 722(g)(5)(C)]. (NEW)
SubgrantAwards	<ul style="list-style-type: none"> States are required to award competitive subgrants to school districts based on need of agencies for assistance and quality of the application submitted [(Sec. 723(c)(1)]. (NOTE: Text in bold represents new language in the 2001 reauthorization.) In determining need, states may consider the number of homeless students within the area served by the agency, and must consider the needs of such students and the ability of the agency to meet such needs. States may also consider: <ul style="list-style-type: none"> The extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth; The extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, and describes how the grantee will meet the LEA requirements under 722(g)(3); The extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; Such other criteria as the agency determines appropriate. [(Sec. 723(c)(2)]. (NOTE: The 2001 reauthorization replaces "as well as the State plan required by section 722(g)" with "describes how the applicant will meet the requirements of 722(g)(3)". In determining quality of applications, states must consider: <ul style="list-style-type: none"> The applicant's needs assessment provided as part of the LEA application, and the likelihood that the program presented in the application will meet such needs; The types, intensity, and coordination of the services to be provided by the program; The involvement of parents or guardians; The extent to which homeless children and youth are integrated into regular education programs; The quality of the applicant's evaluation plan; The extent to which services provided under the subtitle will be coordinated with other available services; Such other measures as the State may consider indicative of a high quality program, such as the extent to which the LEA will provide case management or related services to unaccompanied youth. [(Sec. 723(c)(2)]. (NEW)
State Data Collection	<ul style="list-style-type: none"> State coordinators are required to gather information on the problems homeless children face in accessing school, the identification of special needs, progress made in addressing those problems and needs, and the success of the programs under the subtitle [Sec. 722(f)(1)]. (NOTE: The 2001 reauthorization eliminates previous statutory requirements for states to provide an estimate of the number of children and youth.) State coordinators must collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of homeless children and youth [Sec. 722(f)(3)]. (NEW)
Federal Activity	<ul style="list-style-type: none"> The Secretary is required to use a peer review process in reviewing McKinney-Vento state plans, and is required to evaluate whether State laws, policies, and practices described in the plan adequately address the problems of homeless children and youth relating to access to education and placement as described in the plan [Sec. 724(a)]. The Secretary is required to provide support and technical assistance to SEAs to assist in carrying out their responsibilities under the subtitle, if it is requested by SEAs [Sec. 724(b)]. The Secretary is required to create a public notice of the educational rights of homeless children and youth and disseminate such notice nationwide and to other Federal agencies, programs, and grantees, including Head Start grantees, health care for the homeless projects, emergency food and shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development [Sec. 724(c)]. (NEW) The Secretary is required to conduct evaluation and dissemination activities of programs [Sec. 724(d)].

	<ul style="list-style-type: none"> • The Secretary is required to determine the extent to which SEAs are ensuring that each homeless child and homeless youth has access to a free appropriate public education, based on information received from the States and gathered by the Secretary [Sec. 724(f)]. • The Secretary is required to publish school enrollment guidelines in the Federal Register which describe successful ways in which a State may assist LEAs to immediately enroll homeless students, and how States can review and revise State requirements on immunization, school, or medical records in order to enroll homeless students immediately [Sec. 724(g)]. (NEW) • The Secretary is required to periodically collect and disseminate data and information on the number and location of homeless children and youth; the educational services they receive; the extent to which their educational needs are being met; and such other data and information as the Secretary determines to be necessary and relevant. The Secretary is required to coordinate data collection and dissemination with the agencies and entities that receive McKinney-Vento funds and administer McKinney-Vento programs [(Sec. 724(h))]. (NEW) • The Secretary is required to submit a report to the President and to Congress on the status of the education of homeless children and youth, including information on the education of homeless children and youth, and the actions of the Secretary and the effectiveness of McKinney-Vento programs, not later than four years after the date of enactment [Sec. 724(i)]. (NOTE: The 2001 reauthorization changes this provision by eliminating the requirement to submit a report every three years, and by requiring more specific content in the report).
Funding	<ul style="list-style-type: none"> • No state shall receive less than the greater of \$150,000; one-quarter of one percent of the overall appropriation; or the amount the state received in FY2001. If there are insufficient funds to allot to each State the minimum amount, the Secretary must ratably reduce the allotments to all States based on the proportionate share that each State received in the preceding fiscal year. [Sec. 722(c)(1)]. • \$70 million is authorized for FY2002, and such sums as may be necessary for fiscal years 2003 through 2007 (Sec. 726).

Amendments to Title I of the Elementary and Secondary Education Act	
State Plans	<ul style="list-style-type: none"> • Any State desiring to receive funding under Title I Part A must submit a plan to the Secretary that is coordinated with the McKinney-Vento Homeless Assistance Act [Section 1111 (a)(1)]. (NEW)
Local Plans	<ul style="list-style-type: none"> • An LEA may receive funding under Title I Part A only if the LEA has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with the McKinney-Vento Homeless Assistance Act [Section 1112(a)(1)]. (NEW) • Each LEA Title I plan must include a description of the services that will be provided to homeless children, including services provided with funds from the Reservation of Funds set-aside (see below) [Section 1112(b)(1)(O)]. (NEW)
Reservation of Funds	<ul style="list-style-type: none"> • LEAs must reserve such funds as are necessary to provide services comparable to those provided to children in Title I, Part A funded schools to serve homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live [Section 1113(c)(3)(A)]. (NOTE: The 2001 reauthorization strikes the phrase "where appropriate, eligible," which appeared under the previous statute before "homeless children;" the 2001 reauthorization adds "and other locations where children may live" after the word "shelters.")
Targeted Assistance Schools	<ul style="list-style-type: none"> • A child who is homeless and attending any school in the LEA is eligible for services in a Targeted Assistance School Program [Sec. 1115(b)(2)(E)] (NOTE: The 2001 reauthorization strikes "may be

eligible" from the previous statute and replaces it with "is eligible.")

For more information, please see:

National Association for the Education of Homeless Children and Youth - <http://www.naehcy.org/>

National Center for Homeless Education - www.serve.org/nche

National Coalition for the Homeless - <http://www.nationalhomeless.org/>

National Law Center on Homelessness & Poverty - <http://www.nlchp.org/>

National Network for Youth - <http://www.nn4youth.org/>

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CHILD NUTRITION BRIEF

Food Research & Action Center 1875 Connecticut Ave. NW, Suite 540 Washington, DC 20009

Federal Resources for Feeding Homeless Children and Youth

The Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108-265) expands federal child nutrition programs in several ways to assist homeless and runaway children and youth by providing:

- Automatic eligibility for free school meals to homeless and runaway children
- Streamlined procedures to document such eligibility
- Full school year eligibility for free school meals
- Federal nutrition funds for shelters that serve children and youth up to age 18

Automatic Eligibility for Free School Meals

Before the Child Nutrition and WIC Reauthorization Act was passed, administrative guidance made homeless children, as defined by the McKinney-Vento Homeless Assistance Act, automatically eligible for free school meals. The Reauthorization Act establishes in law this categorical eligibility for homeless children, meaning that all children who are defined as homeless are eligible for free school meals.

The Reauthorization Act also confers automatic eligibility for free school meals on migrant children served through the Migrant Education Program and runaway children and youth served through the three grant programs established under the Runaway and Homeless Youth Act (RHYA): Basic Center Program, Transitional Living Program for Older Homeless Youth, and Street Outreach Program.

Please see *USDA Memo SP 4* (www.fns.usda.gov/cnd/Governance/policy/Reauthorization_04/2004-07-19.pdf) and FRAC's school meals brochure for homeless families (www.frac.org/html/publications/homelesseducpamphletgovt.PDF) for more details.

Documentation of Free Meal Eligibility

The McKinney-Vento Act requires every school district to designate a local educational agency liaison for homeless children and youth. The liaisons ensure that children receive the educational and other services for which they are eligible – including free school meals. Local educational agency liaisons, homeless or domestic violence shelter directors and RHYA service providers may provide documentation that children are homeless or runaway to school food service directors or other officials who determine school meal eligibility.

The documentation must include the child's name or a list of their names, effective date(s), and the signature of the local educational agency liaison, homeless or domestic violence shelter director or RHYA service provider. This list is acceptable in lieu of a school meal application usually submitted by the child's parent or guardian and is sufficient for school officials to approve the child's eligibility for free school meals.

School food service directors, principals and other school officials should work closely with local educational agency liaisons, homeless or domestic violence shelter directors and RHYA service providers to ensure that homeless and runaway children and youth are provided free meal benefits as promptly as possible.

For more details, please see *USDA Guidance on Determining Categorical Eligibility* (www.fns.usda.gov/cnd/Governance/policy/Reauthorization_04/2004-09-17.pdf) and *USDA Memo SP 4* (www.fns.usda.gov/cnd/Governance/policy/Reauthorization_04/2004-07-19.pdf).

CHILD NUTRITION BRIEF

Federal Resources for Feeding Homeless Children and Youth

Full School Year Eligibility

Once a student has been certified as eligible for free meals, including when based on designation as homeless or runaway by a local educational agency liaison, homeless or domestic violence shelter director or RHYA service provider, the eligibility remains effective for the remainder of the school year. This policy holds even if children or youth move into permanent housing and are no longer homeless or served by RHYA programs. In such instances, a new eligibility determination shall be made in the subsequent school year. Schools are allowed to continue a student's eligibility from the previous school year for 30 operating days into the subsequent school year, or until a new eligibility determination is made, whichever occurs first.

Please see *USDA Memo SP 3* (www.fns.usda.gov/cnd/Governance/policy/Reauthorization_04/2004-07-07.pdf) for more details.

Federal nutrition funds for shelters serving children and youth

Homeless, runaway and domestic violence shelters are eligible to use the Child and Adult Care Food Program (CACFP) to feed children and youth up to 18 years of age in their facilities. The Reauthorization Act raised the age limit for children who may be fed through the program, and this expansion of eligibility from a maximum age of 12 to 18 years will help provide financial support for often strained shelter budgets.

Shelters will be reimbursed for meals and snacks served to children age 18 and under residing in the shelter. Participating shelters can receive a reimbursement of \$1.23 for breakfast, \$2.24 for lunch or supper and 61 cents for a snack. For each child served, shelters can receive reimbursement for up to three meals or two meals and one snack each day.

To apply for this program, contact your state CACFP agency. Please see *USDA Memo CACFP 5* (http://www.fns.usda.gov/cnd/Care/Reauth_Memos/2004-08-10.pdf) and FRAC's brochure on federal funds for shelters (www.frac.org/html/federal_food_programs/programs/homeless/CACFP_Brochure_Blank.pdf) for more details. Also see FRAC's website (www.frac.org) for a CACFP in Shelters Outreach Toolkit, which includes a list of state CACFP agency contact names and numbers.

Food stamps and homeless children and youth

Youth who live in a shelter or entirely alone should be able to apply for food stamps on their own. Their parents' income should not be used in calculating whether they are eligible for food stamps. If they live in a shelter, service providers may assist such youth by providing letters for them to bring to food stamp offices.

Homeless people living in shelters are eligible for food stamps, even if the shelter provides meals. The food stamp office has special rules that allow homeless families to receive food stamps, even if they do not have photo IDs or do not have a regular address. The food stamp office may accept as ID the word of a shelter director who can identify the food stamp applicant. If a household's income is low enough, the food stamp office must issue food stamps within 7 days of when the household applies, and in some states sooner.

Please see *Homeless Persons' Rights Under The Food Stamp Program* fact sheet (www.frac.org/html/news/options_homeless.html) for more details.



SUBJECT: Categorical Eligibility for Free Lunches and Breakfasts of Runaway, Homeless, and Migrant Youth: Reauthorization 2004 Implementation Memo SP 4

TO: Special Nutrition Programs
All Regions

State Agencies
Child Nutrition Programs
All States

Section 107 of the Child Nutrition and WIC Reauthorization Act of 2004 (Act) amended section 9(b) of the Richard B. Russell National School Lunch Act to make runaway, homeless and migrant children categorically eligible for free meal benefits under the National School Lunch and School Breakfast Programs and is effective July 1, 2004. In addition to establishing free meal eligibility, the Act also establishes a requirement for documenting a child's status as runaway, homeless, or migratory.

Previously, through guidance, the Food and Nutrition Service extended categorical eligibility for free school meals to children considered homeless under the McKinney-Vento Homeless Assistance Act. School officials were allowed to accept statements that children were homeless from the local educational liaison for the homeless or directors of homeless shelters where the children reside. The Act now establishes in law the categorical eligibility of these children for free school meals. Please see the previously issued memoranda of April 6, 1992, *Documentation of Free and Reduce Price Meal Eligibility for Homeless Children* and of April 4, 2002, *Updated Guidance for Homeless Children in the School Nutrition Programs*, on documentation for homeless children under McKinney-Vento.

There were, however, no similar eligibility and documentation provisions for runaway youth or migrant children. At this time, we are in discussions with the Department of Health and Human Services, regarding implementation of that portion of the Act that addresses categorical eligibility for runaway youth served through grant programs established under the Runaway and Homeless Youth Act. We hope to provide guidance in the very near future on how to determine and document if a child is receiving services as a runaway and is therefore categorically eligible for free school meals.